

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2782

SPONSOR: Criminal Justice Committee and Senator Bennett

SUBJECT: Fraudulent Practices

DATE: April 13, 2004                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>ATD</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 2782 amends s. 775.0844, F.S., to create a new aggravated white collar crime. It is a first degree felony, ranked as a Level 9 offense, which is punishable by a 10-year minimum mandatory sentence, to commit aggravated white collar crime in which at least one of the offenses is a violation of s. 409.920, F.S. (Medicaid provider fraud), or a white collar crime in which intent to defraud is an element, and which, alone or in combination with another violation of s. 409.920, F.S., or a white collar crime in which intent to defraud is an element, either victimizes 20 or more persons, or victimizes the State, its political subdivisions, or an agency of the State or its subdivisions.

The CS also adds reference to s. 409.920, F.S., relating to Medicaid provider fraud, to the definition of “white collar crime” under s. 775.0844, F.S. Therefore, a violation of the Medicaid provider fraud statute constitutes a “white collar crime” for the purpose of the White Collar Crime Victim Protection Act.

This CS substantially amends ss. 775.0844 and 921.0022, F.S.

## II. Present Situation:

Section 775.0844, F.S., the White Collar Crime Victim Protection Act, defines the term “white collar crime” to mean the commission of any felony offense contained in specified chapters of statute. Included in the list are the following chapters: ch. 560, F.S. (relating to the Money Transmitters’ Code), ch. 812, F.S. (relating to theft, robbery, and related crimes), ch. 815, F.S. (relating to computer-related crimes), ch. 817, F.S. (relating to fraudulent practices), ch. 825, F.S. (relating to abuse, neglect, and exploitation of elderly persons and disabled adults), ch. 831, F.S. (relating to forgery and counterfeiting), ch. 832, F.S. (relating to the issuance of worthless

checks and drafts), ch. 838, F.S. (relating to bribery and misuse of public office), ch. 839, F.S. (relating to offenses by public officers and employees), ch. 895, F.S. (relating to offenses concerning racketeering and illegal debts), and ch. 896, F.S. (relating to offenses related to financial transactions). Also included are the following felony offenses: offenses that are committed with intent to defraud or that involve a conspiracy to defraud; offenses that are committed with intent to temporarily or permanently deprive a person of his or her property or that involve a conspiracy to temporarily or permanently deprive a person of his or her property; and offenses that involve or result in the commission of fraud or deceit upon a person or that involve a conspiracy to commit fraud or deceit upon a person.

This section defines the term “aggravated white collar crime” as at least two white collar crimes that have the same or similar intents, results, accomplices, victims or methods of commission, or that are otherwise interrelated by distinguishing characteristics and are not isolated incidents. This section provides that it is a first degree felony, ranked as a Level 9 offense in the Criminal Punishment Code’s offense severity ranking chart, for a person to commit an aggravated white collar crime and in doing so victimize 10 or more elderly persons; 20 or more persons; or the State, its political subdivisions, or an agency of the State or its subdivisions, and thereby obtain or attempt to obtain \$50,000 or more.

### **III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 2782 amends s. 775.0844, F.S., to create a new aggravated white collar crime. It is a first degree felony, which is punishable by a 10-year minimum mandatory sentence, to commit aggravated white collar crime in which at least one of the offenses is a violation of s. 409.920, F.S. (Medicaid provider fraud), or a white collar crime in which intent to defraud is an element, and which, alone or in combination with another violation of s. 409.920, F.S., or a white collar crime in which intent to defraud is an element, either victimizes 20 or more persons, or victimizes the State, its political subdivisions, or an agency of the State or its subdivisions.

The CS also adds reference to s. 409.920, F.S., relating to Medicaid provider fraud, to the definition of “white collar crime” under s. 775.0844, F.S. Therefore, a violation of the Medicaid provider fraud statute constitutes a “white collar crime” for the purpose of the White Collar Crime Victim Protection Act.

The CS amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank the new aggravated white collar crime as a Level 9 offense and make conforming referencing changes to the chart as a result of the amendments of s. 775.0844, F.S. The CS takes effect on July 1, 2004.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet reviewed the CS but did estimate that the original bill was likely to have an insignificant prison bed impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.